

# EXHIBIT A

**MEMORANDUM OF UNDERSTANDING**  
**NOVEMBER 12, 2013**

***Bivings v. Euramex Management Group, LLC et al*, Court File No.: 1:12-cv-03591-CAP**

This Memorandum of Understanding is intended to effectuate the full, final, and complete resolution of all allegations and claims that were asserted or could have been asserted in the above-referenced case.

1. **Settlement Amount.** The total settlement amount is \$235,000.00, inclusive of attorneys' fees, costs, and expenses. Defendants shall be responsible for payment of the employer's share of payroll taxes resulting from payments of this amount to Plaintiffs. Defendants shall also pay all mediator fees. Defendants shall owe nothing further under the terms of this Memorandum of Understanding.
2. **Scope of the Settlement Class.** This settlement specifically includes only the following individuals: All "opt-in" Plaintiffs who have filed consent to join forms in *Bivings v. Euramex Management Group, LLC et al*, Court File No.: 1:12-cv-03591-CAP, as of the date of the execution of this Memorandum of Understanding.
3. **Allocations.** Mays & Kerr will provide a reasonable allocation of settlement amounts among all Plaintiffs identified in paragraph 2, and attorneys' fees and costs to Defendant within two (2) calendar days of executing this memorandum of understanding. The allocation of these amounts will be adopted by Defendants as their settlement offer to each so long as the Plaintiffs' Settlement Allocations are reasonably based upon Plaintiffs' damages analysis. The allocation shall contemplate reimbursement of all Plaintiffs' costs, fees, and expenses and a 40% contingent fee to Mays & Kerr. Defendants will not object to Plaintiffs' attorneys' fees and costs allocation when Mays & Kerr seeks approval of same.
4. **Communication of Settlement.** Mays & Kerr will send a notice of settlement (including the individual settlement offers) and release form to the Plaintiffs included within the scope of the settlement class.
5. **Disbursement of Each Settling Plaintiff's Settlement Amount.** Regarding the payment of the settlement amount, Defendants will coordinate the payment of the checks through their payroll system from the settlement amount. Two settlement checks will be issued to each Plaintiff. The first check will constitute half of the settlement payment and will be reported as wages for tax purposes with each Plaintiff receiving an IRS Form W-2 for this portion of the settlement payment. The second check will cover the remaining half of the settlement payment and shall constitute payment for liquidated damages and will be reported on an IRS Form 1099. All amounts allocated as attorneys' fees and costs will be paid to

Mays & Kerr and will be reported on an IRS Form 1099. Defendants will provide all settlement checks to Mays & Kerr for disbursement.

6. **Scope, Effect and Distribution of the Release.** The release agreed upon and made part of the settlement shall include a release of all parties of all claims known or unknown that were asserted or could have been asserted in this action, including without limitation, any claims for overtime compensation, liquidated damages, costs, and attorney's fees compensation under the Fair Labor Standards Act. A Plaintiffs' endorsement of the settlement check(s) shall constitute acceptance of the terms of the release agreement by that Plaintiff.
7. **Drafting of Settlement Papers and Timeline of Events.**  
The following timeline shall apply to this Settlement:
  - A. **November 14, 2013:** Deadline for Plaintiffs to provide Defendants Plaintiffs' Settlement Allocations described in paragraph 3 above.
  - B. **November 15, 2013:** Deadline for Mays & Kerr to send out notice of settlement and release forms identified in paragraph 4 above.
  - C. **December 4, 2013:** Deadline to file Joint Motion for Settlement Approval and Entry of Judgment As to All Plaintiffs Who Have Filed Opt-In Consent Forms. Mays & Kerr will draft the motion, in accordance with the terms of this Memorandum of Understanding, in time to provide Defendants with seven days to review and discuss changes with Mays & Kerr.
  - D. Twenty-one (21) calendar days after the Settlement Effective Date (i.e., Court approval of the settlement), Defendants to provide settlement payments to Mays & Kerr by courier, FedEx, or UPS.
8. **No Admissions.** The Parties do not abandon their respective positions and contentions taken in the above-referenced case. Nonetheless, the Parties recognize that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests. In light of this recognition, the Parties believe that this Memorandum of Understanding is the most efficient and beneficial method to resolve the claims asserted in the case.
9. **Conditions of Settlement.** This Memorandum of Understanding is expressly contingent upon the Court issuing a Final Order approving this the terms of the Parties' settlement, dismissing this case, and entering final judgment as to each of the Plaintiffs' and their respective claims under the FLSA. In the event that either the Court does not enter a Final Order approving the terms of this settlement, the Parties agree to enter into good faith negotiations to conform the terms of the settlement in a manner that meets the Court's approval and obtains a Final Order and judgment in this case. In any event, nothing in this Memorandum of Understanding shall be used by or against any Party as a determination, admission, or concession of any issue of law or fact in the litigation.

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'M' that are connected and looped together.

John Mays  
Mays & Kerr LLC  
Attorney for Plaintiffs

A handwritten signature in black ink, consisting of a stylized 'M' and 'S' that are connected and looped together.

Matt Simpson  
Fisher & Phillips LLP  
Attorney for Defendants